HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO.1695 OF 1995

Between:
Sri Konappa Reddy Vijay Kumar
and 9 others.

..... Petitioner

AND

The Andhra Pradesh State Electricity Board,
Vidyuth Soudha, Somajiguda,
Hyderabad, represented by Member Secretary
and others.

.....Respondents

::ORDER::

Counsel for the Petitioner : Sri S.V.Ramana for

Sri O.Manoher Reddy

Counsel for Respondents : Smt.Saraswathi

Dated 19.9.2006

Whether the Andhra Pradesh State Electricity Board (for short 'the Board') could revise the pay fixation of the petitioners without giving them action oriented notice and opportunity of hearing, is the only question which arises for determination in this petition filed under Article 226 of the Constitution of India.

The petitioners joined the services of the Board as Lower Division Clerks. In the course of service, some of the petitioners were promoted as Upper Division Clerks. In the year 1991, the pay scales of the employees of the Board were revised vide
B.P. (P&G Per) Ms.No.481 dated 04-02-1991. At that time, the petitioners had reached maximum of the pay scale. Therefore, their pay was fixed in the revised scales. After about two years, Superintending Engineer (Operations), Nellore (respondent No.2) issued memo dated 21-12-1994 vide which he directed that pay of the petitioners be again revised by denying them the benefit of one increment.

The petitioners have challenged the decision contained in communication dated 21.12.1994 on several grounds including the one that before revising fixation of their pay, respondent No.2 did not give them any notice or opportunity of hearing, and in this manner, they have been condemned unheard.

In the counter affidavit filed on 17.9.2006 by Superintending Engineer/Operation/ APSPDCL Nellore, an attempt has been made to justify refixation of the pay of the petitioners by asserting that they were not entitled to the benefit of extra increments. In para-3 of his affidavit

Sri Tirupathi Munikrishnaiah, Superintending Engineer/Operation Circle/Nellore has given the details of the communication sent to the petitioners informing them about revision of pay fixation. However, the deponent has not controverted the assertion contained in paragraphs 6 and 7 of the petition that before revising their pay, the concerned authority did not give them notice and opportunity of hearing.

I have heard learned counsel for the parties. Since the respondents have not denied the assertion contained in the affidavit filed in support of the writ petition that the decision to re-fix their pay was taken without giving them notice and opportunity of hearing, there is no escape from the conclusion that the impugned decision is vitiated due to violation of the rule of audi alteram partem, as explained and elucidated in **State of Orissa v. Binapani Dei**[1]; **Sayeedur Rehman v. State of Bihar**[2]; **Maneka Gandhi v. Union of India**[3] and **Olga Tellis v. Bombay Municipal Corporation**[4].

The question whether the rules of natural justice are applicable to purely administrative actions is no longer res integra and must be treated as settled by the judgments of the Supreme Court in **A.K.Kraipal vs. Union of India**[5]; **S.L.Kapoor v. Jag Mohan**[6]; **Swadeshi Cotton Mills v. Government of Uttar Pradesh**[7].

By applying the ratio of the aforementioned judgments to the facts of this case, I hold that memo dated 21.12.1994 issued by Superintending Engineer, Nellore and consequential refixation of the pay of the petitioners is vitiated due to violation of the rules of natural justice.

In the result, the writ petition is allowed. Memo dated 21.12.1994 is quashed and the respondents are restrained from revising the pay fixation of the petitioners. However, it is made clear that this order shall not preclude the competent authority to issue notice and pass appropriate order after giving reasonable opportunity of hearing to the petitioners.

G.S.SINGHVI, CJ

19.9.2006
msv

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[1] AIR 1967 SC 1269
[2] AIR 1973 SC 239
[3] AIR 1978 SC 597
[4] AIR 1986 SC 180
[5] AIR 1970 SC 150
[6] AIR 1981 SC 136
[7] (1975) 4 SCC 378